

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

JAMES GWYN,

Respondent

v.

LISA SUMMERS.

Appellant

DOCKET NUMBER WD79565

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 21, 2017

Appeal From:

Circuit Court of Platte County, MO
The Honorable Thomas Clark Fincham, Judge

Appellate Judges:

Division One
James Edward Welsh, P.J., Anthony Rex Gabbert, and Edward R. Ardini, Jr., JJ.

Attorneys:

Howard Lotven, Kansas City, MO

Counsel for Appellant

Attorneys:

Sarah Recker, Parkville, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**JAMES GWYN, Respondent, v.
LISA SUMMERS, Appellant**

WD79565

Platte County

Before Division One Judges: Welsh, P.J., Gabbert, and Ardini, JJ.

Lisa Summers ("Mother") appeals the circuit court's dismissal of her "Petition to Set Aside Judgment Pursuant to Section 210.854 RSMo," in which she sought to set aside the Judgment that established James Gwyn's ("Father's") paternity of the couple's two children. Mother alleged that the children were not Father's biological children, and she asked the court to order paternity testing, declare that Father is not the children's father, and extinguish all current and past due child support arrearages assessed against *her*. The court granted Father's motion to dismiss.

Affirmed.

Division One holds:

The circuit court did not err in dismissing Mother's petition. Section 210.854 does not provide an avenue of relief to a petitioner who is not questioning their own parental relationship with the child. The legislature's clear intent in enacting the statute was to provide an avenue to set aside a paternity judgment against a person who is not a parent of the child and to free that person from the consequences of such a judgment. Under the statute, the *petitioner* must be challenging the parental relationship between *petitioner* and child, but Mother alleged in her petition, and sought to prove, that *Father* is not the children's biological parent; thus, she could not proceed under section 210.854.

Opinion by James Edward Welsh, Presiding Judge

March 21, 2017

* * * * *

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.
